



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2021-0169]

Entry-Level Driver Training: SBL Truck Driving Academy, Inc.; Application for Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces that it has received an application from SBL Truck Driving Academy, Inc. (SBL) to exempt two of its current employees from the theory and behind-the-wheel (BTW) instructor qualification requirements contained in the entry-level driver training (ELDT) regulations. Specifically, SBL seeks an exemption from the requirement that instructors have at least 2 years of experience driving a commercial motor vehicle (CMV) requiring a commercial driver's license (CDL) of the same or higher class and/or the same endorsement necessary to operate the CMV for which training is provided. FMCSA requests public comment on the applicant's request for exemption.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**.]

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Number FMCSA-2021-0169 by any of the following methods:

- **Federal eRulemaking Portal:** www.regulations.gov. See the **Public Participation and Request for Comments** section below for further information.
- **Mail:** Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.

- **Hand Delivery or Courier:** West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.
- **Fax:** (202) 493-2251.

Each submission must include the Agency name and the docket number (FMCSA-2021-0169) for this notice. Note that DOT posts all comments received without change to www.regulations.gov, including any personal information included in a comment. Please see the **Privacy Act** heading below.

Docket: For access to the docket to read background documents or comments, go to www.regulations.gov at any time or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice DOT/ALL 14 – FDMS, which can be reviewed at <https://transportation.gov/privacy>.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards, FMCSA, at (202) 366-2722 or by e-mail at MCPSD@dot.gov. If you have questions on viewing or submitting material to the docket, contact Dockets Operations at (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA-2021-0169), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to www.regulations.gov and put the docket number (“FMCSA-2021-0169”) in the “Keyword” box, and click “Search.” When the new screen appears, click on the “Comment Now!” button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to

the application, including any safety analyses that have been conducted. The Agency must provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption and the regulatory provision from which the exemption is granted. The notice must specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Background

Current Regulatory Requirements

The ELDT regulations, set forth in 49 CFR part 380, subparts F and G, were implemented on February 7, 2022 established minimum training standards for individuals applying for certain CDLs and defined curriculum standards for theory and BTW training. Subpart G of Title 49 of the CFR established an online training provider registry (TPR), eligibility requirements for providers to be listed on the TPR, and qualification requirements for instructors. Under 49 CFR 380.713, a training provider must use instructors who meet the definitions of “theory instructor” and “behind-the-wheel (BTW) instructor” in 49 CFR 380.605, which require that instructors hold a CDL of the same (or higher) class, with all endorsements necessary to operate the CMV for which training is to be provided, and have either: (1) a minimum of 2 years of experience driving a CMV requiring a CDL of the same or higher class and/or the same endorsement; or (2) at least 2 years of experience as a BTW CMV instructor. Exceptions apply to both definitions.

Applicant’s Request

SBL seeks an exemption from the requirement in 49 CFR 380.713 that a training provider use instructors who meet the definitions of “theory instructor” and “BTW instructor” in 49 CFR 380.605. SBL specifies that it has two employees who do not have two years of required driving experience. SBL states that the two employees meet the qualifications under current State regulations and Federal regulations in effect before implementation of the ELDT requirements, have class A CDLs with tanker endorsements, and are medically qualified.

SBL states that the instructor qualifications required by the ELDT regulations will have a severe negative impact on its business and on the driver shortage. SBL requests an exemption that would allow the two instructors to accumulate two years of experience while continuing to provide BTW and theory instruction. SBL asserts the exemption would allow for full instructor staffing, resulting in a “50% increase of approximately 96 students annually.” If the exemption is denied, SBL states that it would be forced to terminate the employees and replace them with less qualified individuals.

SBL also notes that FMCSA has included “grandfathering” provisions in the implementation of other new regulations. SBL points to the provisions in 49 CFR 380.603, which provide that individuals who obtained a Commercial Learner’s Permit (CLP) before February 7, 2022 are not required to comply with the ELDT rule if they obtain a CDL before the CLP expires. SBL is requesting similar consideration for State-licensed instructors who met applicable Federal requirements prior to February 7, 2022.

IV. Equivalent Level of Safety

To ensure an equivalent level of safety, SBL’s application offers a comprehensive list of the qualifications for the two driver training instructors for whom they request the exemption. Both individuals meet the qualifications required prior to implementation of the ELDT rule; both have Class A CDLs with tanker endorsements; both are medically qualified; both have graduated from a State-licensed truck driver training school; both

have taught over the road driving; both have previously trained commercial drivers; one individual worked as a commercial driver; and both have the ability to instruct all topics required by the ELDT regulations.

SBL indicates that the request for the exemption “places no known negative safety impact” and SBL would continue to adhere to all applicable State and Federal regulations that govern the safe operation of CMVs. SBL provides the South Carolina Department of Motor Vehicles requirements for instructors that were in effect prior to implementation of the ELDT final rule. SBL asserts that both employees meet those requirements and that South Carolina-licensed schools have seen no negative safety impacts to date by using instructors with fewer than 2 years of driving experience.

A copy of SBL’s application for exemption is available for review in the docket for this notice.

V. Request for Comments

In accordance with 49 U.S.C. 31315(b), FMCSA requests public comment from all interested persons on SBL’s application for an exemption from the requirement in 49 CFR 380.713 to use instructors who meet the definitions of “theory instructor” and “BTW instructor” in 49 CFR 380.605. All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the Addresses section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Larry W. Minor,
Associate Administrator for Policy.

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